

481—56.10(135C) Factors determining imposition of citation and fine.

56.10(1) The director of the department of inspections and appeals may consider evidence of the circumstances surrounding the violation including, but not limited to, those factors set out in rule 481—56.9(135C) when:

- a. Determining whether a violation will be subject to a fine or citation; and
- b. Determining the monetary amount of the penalty to be specified in the citation, when such a fine is authorized to be levied for a particular class of violation.

56.10(2) If it is determined that a violation shall be cited as a class I violation, the following chart shall be used by the department when calculating the fine amount. The amount of the fine shall be the sum total of the calculated fine amounts for each factor to be considered. With the exception of fines trebled pursuant to Iowa Code section 135C.44 or doubled pursuant to Iowa Code section 135C.44A, the total fine imposed for a single class I violation shall not be less than \$2,000 nor more than \$10,000.

Class I Fine Calculation

Factors to Be Considered	Associated Fine and Related Explanation	Calculated Fine
Frequency and length of time the violation occurred, as specified in subrule 56.9(1)	Duration of violation: <ul style="list-style-type: none"> • If 30 days or less, add \$250. • If more than 30 days, add \$500. Breadth of violation: <ul style="list-style-type: none"> • One resident impacted, add \$250. • More than one resident impacted, add \$500. 	\$
Past history of the facility, as specified in subrule 56.9(2)	Same violation of rule or related rule cited within the past 24 months, add \$500.	\$
Culpability of the facility, as specified in subrule 56.9(3)	Degree of culpability of facility as it relates to the reason the violation occurred, add \$0 to \$500. ¹	\$
Extent of any harm to a resident, as specified in subrule 56.9(4)	<ul style="list-style-type: none"> • Death, imminent danger or substantial probability of death, add \$6,000 to \$8,500. • Moderate to severe physical harm, imminent danger or substantial probability of moderate to severe physical harm, add \$3,000 to \$7,500. • Minor to moderate physical harm, imminent danger or substantial probability of minor to moderate physical harm, add \$1,000 to \$3,000. 	\$
Relationship of the violation to any other types of violations, as specified in subrule 56.9(5)	<ul style="list-style-type: none"> • One or more related class II or class III violations cited, add \$250. • One or more related class I violations cited, add \$500.² 	\$
Actions of the facility after the occurrence of the violation, as specified in subrule 56.9(6)	<ul style="list-style-type: none"> • Good-faith corrective actions taken although violation not appropriately corrected, add \$250. • Corrective actions not taken or the facility failed to notify the director as required, add \$500. 	\$
Accuracy and extent of records kept by the facility, as specified in subrule 56.9(7)	Records maintained by the facility contain pertinent inaccuracies or omissions or were unavailable to the department, add \$500.	\$
Rights of the residents to make informed decisions, as specified in subrule 56.9(8)	Residents' rights to make informed decisions were not respected, add \$500.	\$
Whether the facility made a good-faith effort to address a high-risk resident's needs, as specified in subrule 56.9(9)	Evidence indicates the facility did not make a good-faith effort to address a high-risk resident's specific needs, add \$500.	\$
Additional circumstances surrounding the violation, as specified in rule 481—56.9(135C)	Cite any additional circumstances considered and any associated fine amount.	\$
Total Calculated Class I Fine Amount		\$

¹ For example, the culpability of a facility may range from acts or omissions that are inadvertent or negligent to acts or omissions that intentionally disregard known or obvious risks and make it highly probable that the outcome would cause harm to a resident.

² For example, a violation related to pressure sores could be correlated to a violation related to the use of restraints or failure to provide incontinent care.

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